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January 9, 1995

By Hand Delivery

President Frederick S. Humphries
Florida Agricultural and Mechanical University
Tallahassee, Florida 32307

Re: Gerald Gee: Notice of Appeal

Dear President Humphries:

Pursuant to Rule 6C3-10.125(6)(d), I am appealing the decision of the University Personnel Committee ("UPC"), as relayed to me in your December 2, 1994 letter, which upheld your initial decision to suspend me for remarks I made in my Public Relations Case Studies (PUR 4001) class on September 20, 1993. I am appealing on two bases: the procedural defects used in pursuing the complaints against me and the lack of merit to the substantive findings.

A. Procedural Defects

The procedural defects in the process which resulted in the proposed two-week suspension are too many to name. The following are the most important ones.

1. Complaints under Rule 6C3-10.125 are supposed to be filed promptly (within 60 days) with the EEO/EEA officer (Ms. Gavin) on specific forms provided by the EEO/EEA officer. As you know, none of these things were done in my case. The proceedings against me began almost one year after the alleged discriminatory/harassing incident.

I was prejudiced by this delay in that students from the PUR 4001 already had graduated and many were unavailable to provide Ms. Gavin with relevant information. Ms. Gavin did not help matters with the manner of her investigation. She sent requests to students concerning what had occurred on September 20, 1993 and asked them to return them almost immediately. (Several of my former students have apprised me of this.) She also insisted that their statements be "notarized" – a requirement that is foregone even in formal court settings (28 U.S.C. § 1746) – thus making it wholly impractical for them to respond in a timely fashion. Curiously, she did not ask to interview me.

2. The UPC, which "upheld" your decision to suspend me, had absolutely no authority to do so. Their function was supposed to be solely as a fact gathering body, and they did not perform that function adequately. Mr. Holifield told me and my attorneys that the UPC hearing was informal and *not* an evidentiary hearing, thus limiting my ability to present evidence on my own behalf.

B. Substantive Findings

1. Ms Gavin's report never states that I violated any provision of Rule 6C3-10.125. Although she writes that I used a racial slur, she never concluded that I had created a racially hostile atmosphere through "severe, pervasive or persistent" conduct. So too, she never concluded that I interfered with any student's performance or participation or adversely affected any of their opportunities. The mere fact that she found that I had used a racial slur is

insufficient to support a finding that I violated some specific provision of Rule 6C3-10.125.

2. As you know, I have repeatedly insisted that any punishment of me for my statements on September 20, 1993 would violate my rights to free speech and academic freedom under our collective bargaining agreement, and the State and Federal Constitutions. I continue (and will continue) to object to the suspension on that ground.

3. I have also stated – and, indeed, it does not seem to be disputed by anyone – that I am being punished where an African American in a similar position would not be. This in itself violated Rule 6C3-10.125, the collective bargaining agreement, and numerous other laws.

Finally, I feel compelled to tell you that the slipshod, and unduly long, manner in which the investigation of me was handled seems to have had the purpose of deflecting my attention from the more important aspects of my career here at Florida A&M, thus allowing others to make purportedly "neutral" criticisms of my work. The whole process has hurt my reputation and hurt me personally.

For the foregoing reasons I ask you to reverse the decision of the UPC and lift the proposed suspension of me.

Very truly yours,

/s/ Gerald M. Gee
Gerald Gee